

# Caught in a labor squeeze

Deal could help landscapers, builders hire more migrant workers

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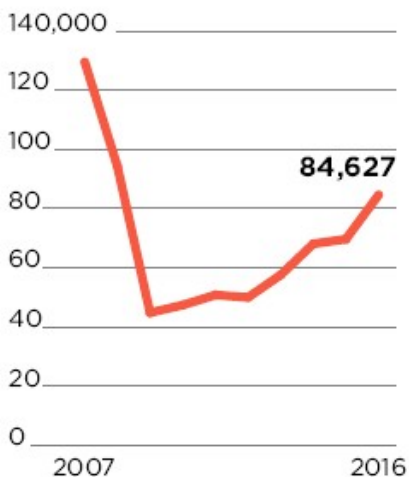
WASHINGTON — North Texas landscaper Bruce Birdsong is sweating these prime months of blooming flowers and freshly clipped grass.

Increased demand for day laborers, caused by a construction boom, has made it hard to staff up for the peak season, he says. Adding to the squeeze has been a federal cap on a temporary migrant

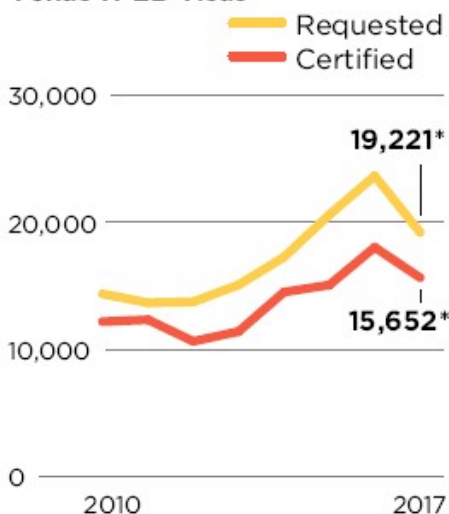
## H-2B visas in Texas

The number of visas given out for seasonal, non-agricultural workers nationwide has fluctuated with the economy and varying caps on how many can be used. Texas companies, by far, are the biggest users of visas for these workers, and demand has only grown in recent years. Landscaping companies are the biggest users of the visas in Texas. In other regions, hotels and other ventures top the list.

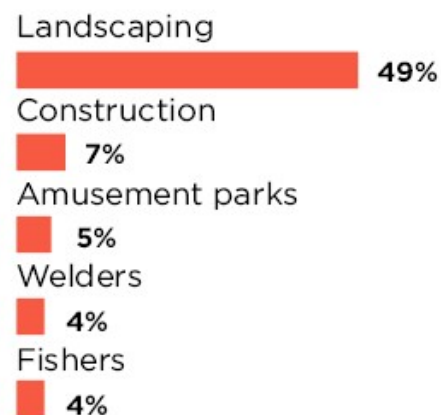
**Nationwide H-2B visas**



**Texas H-2B visas**



**Texas companies most often requested visas for these occupations in 2015**



The FY2017 figures are year to date.

SOURCES: U.S. State Department; U.S. Labor Department

Laurie Joseph/Staff Graphic



**Workers from Precision Landscape Management trim up the entryway to a neighborhood in Lake Forest in Dallas. An increased demand for day laborers, caused by a construction boom, has made it hard for some landscaping companies and others to staff up for the peak season.**

worker program that he and others say is essential to filling jobs they otherwise couldn't.

"It's the only way we can survive," said Birdsong, whose Preci-

sion Landscape Management in Farmers Branch is looking to add 50 workers to its crews.

Congress may have just provided landscapers, builders and

hotel operators the relief they've been wanting. That's because a provision tucked into a spending bill passed last week could double the number of H-2B visas that

cover those seasonal, low-wage, nonfarm workers.

But the action could also rekindle a complex and long-simmering legal immigration battle, particularly with a president who uses those workers while still pushing a “hire American” theme.

Backers say the program boosts the economy by filling less desirable jobs that support other better-paying positions. But critics, who often point to instances of abuse, argue that it’s an end-around that takes away local jobs and depresses wages for U.S. workers.

Those competing dynamics have jumbled the political divide. Consider that the H-2B visa program is the rare issue where a liberal icon like Vermont Sen. Bernie Sanders and a tea party hero like Texas Rep. Louie Gohmert

are on the same side — in this case, opposed.

“Some of us want to get the Americans who are here hired,” said Gohmert, a Tyler Republican.

Much of America’s immigration debate focuses on those who enter the country illegally. And even when it comes to legal visa programs, more attention is typi-

cally paid to the H-1B visas that support high-skilled workers in the tech industry.

But the guest worker setup for temporary, nonagricultural jobs has grown in importance.

Current law limits the program to 66,000 visas a year, split evenly between an application period in the fall and another in the spring. Texas companies are by far the biggest users of the program, accounting for 15 percent of the positions certified last year.

But it’s not just landscapers toiling in the Texas heat. Ski lodges in Colorado use it. As do crabbers in Maryland. As does President Donald Trump, who’s defended the use of H-2B visas at his Mar-a-Lago resort by saying there are “very few qualified people during the high season in the area.”

The program continues to shift with the winds of the economy and the whims of Congress.

Activity peaked about a decade ago, when Congress lifted the cap and made other tweaks. It tanked in the years following the recession. But requests for these foreign workers have grown again as the



A worker from Precision Landscape ManagementkRL8w-kOw01kLUOvU-k0Ik0keUIABR8hB88Tk Uel-h1w01klekLOKUkF8hU-lklekCOLLO-kTBUKS8d40e1kl-kL88KleAkl8kOTTkYpkw8hKUh-kl8kil-kShUw-

economy has improved, with demand outpacing supply the last three years.

Lawmakers, as a result, loosened the limits last year. Then they reversed course in December. Then came the bipartisan deal

struck last week that could add 70,000 or so visas this year.

### **Boosting visas**

The measure would allow the Trump administration to boost the

number of H-2B workers “upon determination that the needs of American businesses cannot be satisfied in fiscal year 2017 with United States workers who are willing, qualified and able to perform” such work.

That decision remains to be seen, but some say the determination is an easy one.

“Who is ready, willing and able to do that job?” Texas Sen. John Cornyn said. “If there is an American, I’m all for it. But what most people will tell you in a lot of these industries, there’s not.”

At Precision Landscape Management, Birdsong said there’s a concerted effort to hire Americans for the scores of jobs they add during the peak season. Those efforts fulfill one of the H-2B requirements that a business show that it’s impossible to find a U.S. worker.

Birdsong said there’s just not a lot of interest from Texans in seasonal landscaping jobs that pay \$12.50 an hour, particularly when the unemployment rate in the state is relatively low.

George Rivero of Ratliff Hardscape in Lewisville recounted a similar struggle in finding stone masons. And Justin Crocker of Earth Tones Commercial in Midlothian said it’s difficult to compete without H-2B, particularly since some competitors use unauthorized immigrants.

“People are just hurting for labor,” said Robert Kershaw, an Austin-based attorney who represents many companies seeking H-2B visas.

## **Jobs for Americans**

But groups ranging from unions to immigration hardliners remain unconvinced.

Mike Cunningham, the retired executive director of the Texas State Building and Construction Trades Council, has been fighting H-2B use for years in the construction industry and beyond, making the case that “there are American workers who will go after these jobs.”

He often encourages unemployed U.S. workers to apply for the jobs in question. And he said he’s often found that the companies, once challenged, will give up the job postings altogether.

“Many of these companies, they really don’t want to hire American workers,” he said. “They want access to cheap labor.”

Critics also point to some horrifying news accounts of employer abuse toward H-2B workers,

though backers say those cases are isolated. Bill Beardall of the Equal Justice Center said those reports underscore that there are many improvements Congress could make to the program.

“It’s not a question of whether H-2B workers are bad or good,” said Beardall, a University of Texas law professor. “It’s that without the adequate controls to protect both the U.S. workers and the temporary foreign workers, it’s been used to pit one group against the other.”

There’s a chance that broader discussion could be on the horizon.

The deal reached this week applies only through the fall, leaving the future unclear for H-2B. Legislation exists to permanently boost the pool of available visas. Politicians like Cornyn have expressed a desire to tackle the immigration system in a more complete way.

And two key lawmakers, Sens. Chuck Grassley and Dianne Feinstein, have called for a more robust debate on H-2B visas.

“The bottom line is that this issue deserves more thoughtful consideration,” said the duo, the top Republican and Democrat, respectively, on the Senate Judiciary Committee.

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